

CITY COUNCIL OF THE CITY OF ANNAPOLIS

ORDINANCE NO. O-22-04

Introduced by Mayor Moyer

AN ORDINANCE concerning

Port Wardens Procedures

FOR the purpose of requiring that appeals to decisions of the Port Wardens are to be made directly to the Circuit Court of Anne Arundel County rather than first being made to the City Council; to have applicants complete and post signs to reduce potential of incorrect signs; and matters generally relating to said Port Wardens procedures.

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BY repealing and re-enacting, with amendments
Section 15.16.040
Code of the City of Annapolis
(1996 Edition and Supplement)

BY repealing
Section 15.16.050
Code of the City of Annapolis
(1996 Edition and Supplement)

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall read as follows:

Section 15.16.040 Hearings and decisions **Port Wardens hearings, decisions and appeals.**

A. Whenever an application is submitted by the Director of Public Works, the Director of Neighborhood and Environmental Programs or by the Harbor Master to the Port Wardens, the Port Wardens shall cause notice of the hearing of the application to be published once in each week for two consecutive weeks in one newspaper of general circulation published in the City. The second advertisement shall be published at least seven days prior to the hearing.

B. The notice required by subsection A of this section shall specify the names and residency of the applicant, the location of the projected construction and description of the construction proposed and such other information as the Port Wardens shall direct. The notice also shall advise that an appeal from a decision of the Port Wardens

1 to the eCity eCouncil is on the record of the proceedings made before the pPort wWardens
2 and that persons who may desire to appeal a decision of the pPort wWardens shall provide
3 for a verbatim account of the pPort wWardens' proceedings to be recorded and transcribed.
4 The cost of the publication of notice of hearing shall be borne by the applicant.
5

6 C. Additionally, a sign indicating that a permit is being sought and stating the
7 date and time of the meeting of the pPort wWardens shall be posted on the property, both
8 at the street and at the water, by the applicant at least ten (10) days prior to the meeting
9 of the pPort wWardens and shall be removed by the applicant within ten (10) days following
10 the completion of the port warden's consideration of the application. The sign(s) will be
11 prepared by the harbor master.
12

13 D. The decision of the pPort wWardens shall be based upon their judgement of
14 testimony presented to them at the hearing, shall be in writing and shall contain the findings
15 of fact upon which the decision is based. All decisions of the pPort wWardens shall be filed
16 with the eCity eClerk.
17

18 E. The pPort wWardens shall cause notice of their decision pertaining to an
19 application to be published within two weeks in one newspaper of general circulation
20 published in the eCity. The cost of the publication of the notice of decision also shall be
21 borne by the applicant.
22

23 F. A person aggrieved by a decision of the Port Wardens may appeal that
24 decision to the Circuit Court of Anne Arundel County in accordance with Maryland Rules
25 of Procedure, Title 7, Chapter 200.
26

27 **Section 15.16.050 Appeal:**

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29 ~~_____ A. A person aggrieved by a decision of the port wardens may appeal that~~
30 ~~decision to the Annapolis city council. A written petition indicating the reasons for the~~
31 ~~appeal shall be filed with the city clerk within thirty (30) days of the final decision of the port~~
32 ~~wardens.~~
33

34 ~~_____ B. A nonrefundable fee for the appeal shall be paid at the time of filing the~~
35 ~~appeal. The fee for an appeal shall be determined, from time to time, by the city council,~~
36 ~~by resolution.~~
37

38 ~~_____ C. The city clerk shall cause notice of the appeal to be published in the same~~
39 ~~manner as port warden hearings and the cost shall be borne by the appellant. Within five~~
40 ~~(5) days following the date of last publication of notice of the appeal, any person who~~
41 ~~participated in the hearing before the port wardens may file a request to intervene in the~~
42 ~~appeal before the city council.~~

~~D. The appeal shall be considered by the city council on the record of the proceedings before the port wardens. The record shall consist of the originals or certified copies of all papers and exhibits filed before the port wardens, the decision of the port wardens and proof of compliance with the publication requirements of Section 15.16.040, all of which shall be transmitted to the city council by the port wardens. The record also shall include a certified transcript of the proceedings before the port wardens, eleven (11) copies of which shall be provided by the appellant and filed with the city clerk and an additional copy provided by the appellant to the original applicant if different from the appellant. The complete record shall be filed with the city council not less than seven (7) days prior to the date of the appeal scheduled before the city council. If the record is not filed timely, except through no fault of the appellant, the appeal shall be dismissed. At the hearing, the city council shall hear argument from the appellant, the applicant, if different from the appellant, and from any other person who has requested timely to intervene in the appeal.~~

~~E. The city council may affirm or reverse the decision of the port wardens.~~

~~F. A person aggrieved by the decision of the city council may appeal that decision to the Circuit Court for Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200, or its successor. An appeal under this section must be taken within thirty (30) days of the date of the decision appealed and shall be the exclusive remedy of the aggrieved party from that decision.~~

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this 11th day of October, 2004.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

Deborah Heinbuch, MMC
City Clerk

BY: _____
ELLEN O. MOYER, MAYOR

EXPLANATION:

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Redlining indicates matter added to existing law.
~~Strike Out indicates matter deleted from existing~~
~~law.~~
Underlining indicates amendments.